

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

No 1:08-cv-119

EDWARD CARRINGTON, et al.

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

Motion to Dismiss Complaint By “Duke
University Defendants”

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rules 7.2 and 7.3, the “Duke University Defendants”—defined by the Court and the parties for purposes of this motion to comprise Duke University, Richard Brodhead, John Burness, Robert Dean, Matthew Drummond, Victor Dzau, Aaron Graves, Kate Hendricks, Peter Lange, Larry Moneta, Tallman Trask, and Suzanne Wasiolek—hereby move the Court to dismiss all claims asserted against them for failure to state a claim on which relief may be granted.¹ A chart identifying the causes of action and the defendants against whom each cause is asserted is attached as an Exhibit (Exhibit 1) to the accompanying Brief in Support of “Duke University Defendants” Motion to Dismiss Complaint.

¹ (See Joint Mot. to Extend Page Limitations and to Establish a Rule 12 Briefing Schedule, Dkt. 50, at 1 (defining “Duke University Defendants”); Order, Dkt. 51 (granting Joint Mot.).)

The bases for this Motion are presented in detail in the accompanying Brief in Support of “Duke University Defendants” Motion to Dismiss Complaint. For the reasons set forth therein, the “Duke University Defendants” respectfully request that the claims asserted against them be dismissed with prejudice. Because of the number of causes of action in the Complaint and the complexity of the issues raised thereby, the “Duke University Defendants” request that oral argument be scheduled on their Motion to Dismiss pursuant to Local Rule 7.3(c)(1).

Respectfully submitted, this the 30th day of May, 2008.

/s/ Jamie S. Gorelick

Jamie S. Gorelick
District of Columbia Bar No. 101370
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Ave., N.W.
Washington, D.C. 20006
Telephone: (202) 663-6500
Facsimile: (202) 663-6363
Email: jamie.gorelick@wilmerhale.com

/s/ J. Donald Cowan, Jr.

J. Donald Cowan, Jr.
N.C. State Bar No. 0968
Smith Moore LLP
P.O. Box 21927 [27420]
300 N. Green Street, Suite 27401
Telephone: (336) 378-5329
Facsimile: (336) 378-5400
Email: don.cowan@smithmoorelaw.com

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2008, I electronically filed the foregoing Motion to Dismiss Complaint By “Duke University Defendants” with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Counsel for the Plaintiffs

William J. Thomas, II
Email: thomas@tfmattorneys.com

Charles J. Cooper
Email: ccooper@cooperkirk.com

David H. Thompson
Email: dthompson@cooperkirk.com

Counsel for J. Wesley Covington

Kenneth Kyre, Jr.
Email: kkyre@pckb-law.com

Counsel for City of Durham

Reginald B. Gillespie, Jr.
Email: rgillespie@faison-gillespie.com

Counsel for Mark Gottlieb

Edwin M. Speas, Jr.
Email: espeas@poynerspruill.com

Eric P. Stevens
Email: estevens@poyners.com

Counsel for Benjamin Himan

Henry W. Sappenfield
Email: hsappenfield@kennoncraver.com

Joel Miller Craig
Email: jcraig@kennoncraver.com

Counsel for Patrick Baker, Steven Chalmers, Ronald Hodge, Lee Russ, Stephen Mihaich, Beverly Council, Jeff Lamb, Michael Ripberger

Patricia P. Kerner
Email: tricia.kerner@troutmansanders.com

D. Martin Warf
Email: martin.warf@troutmansanders.com

Hannah Gray Styron
Email: hannah.styron@troutmansanders.com

Counsel for David Addison

James B. Maxwell
Email: jmaxwell@mfbpa.com

As of the date of this filing, no attorney has made an appearance on behalf of the following Defendant. I hereby certify that I served the following Defendant by U.S.

Mail:

Linwood Wilson
6910 Innesbrook Way
Bahama, NC 27503-9700

This 30th day of May 2008.

/s/ Jamie S. Gorelick
Jamie S. Gorelick

Attorney for Duke University, Duke University Health System, Inc., Richard Brodhead, Peter Lange, Larry Moneta, John Burness, Tallman Trask, Suzanne Wasiolek, Matthew Drummond, Aaron Graves, Robert Dean, Tara Levicy, Theresa Arico, Kate Hendricks, Victor Dzau